

RESOLUTION NO. EDC 2012-2

A RESOLUTION APPROVING AND AUTHORIZING CERTAIN ACTIONS AND PROCEEDINGS WITH RESPECT TO CERTAIN PROPOSED ECONOMIC DEVELOPMENT REVENUE BONDS

WHEREAS, the City of West Lafayette, Indiana (the “City”), is authorized by I.C. 36-7-11.9 and I.C. 36-7-12 (collectively, the “Act”) to issue revenue bonds for the financing of economic development facilities, and provide the proceeds of the revenue bond issue to another entity to finance or refinance the acquisition, construction, renovation, installation and equipping of said facilities; and

WHEREAS, Metro FiberNet LLC (the “Company”), its parent or subsidiary thereof, desires to finance the construction of facilities to house electronics and to install fiber optic cable that will provide high speed internet, telephone and television services to the City (the “Projects”); and

WHEREAS, the Company will complete the Projects in an area that is in or will be in the Metro FiberNet Economic Development Area; and

WHEREAS, the Company has advised the City of West Lafayette Economic Development Commission (the “Commission”) and the City that it proposes that the City issue its Economic Development Revenue Bonds, Series 2012 (Metro FiberNet Project) in an amount not to exceed Two Million Five Hundred Thousand Dollars (\$2,500,000) (the “Series 2012 Bonds”) under the Act and provide the proceeds of such Series 2012 Bonds to the Company for the purpose of financing the Projects; and

WHEREAS, the Commission has studied the Projects and the proposed financing of the Projects and their effect on the health and general welfare of the City and its citizens; and

WHEREAS, the completion of the Projects results in the diversification of industry, the creation of approximately 10 new jobs, with a payroll of approximately \$500,000, and the creation and retention of business opportunities in the City; and

WHEREAS, pursuant to I.C. § 36-7-12-24, the Commission published notice of a public hearing (the “Public Hearing”) on the proposed issuance of the Bonds to finance the Projects; and

WHEREAS, the Commission held the Public Hearing on the Projects on October 23, 2012.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF WEST LAFAYETTE ECONOMIC DEVELOPMENT COMMISSION AS FOLLOWS:

SECTION 1. The Commission hereby finds, determines, ratifies and confirms that the diversification of industry, the retention of business opportunities and the retention of opportunities for gainful employment within the jurisdiction of the City is desirable, serves a public purpose, and is of benefit to the health and general welfare of the City; and that it is in the public interest that the City take such action as it lawfully may to encourage the diversification of industry, the retention of business opportunities, and the retention of opportunities for gainful employment within the jurisdiction of the City.

SECTION 2. The Commission hereby determines that the Projects will not have a material adverse competitive effect on any similar facilities already constructed or operating in or near the City.

SECTION 3. The Commission hereby approves the report with respect to the Projects presented at this meeting. The Secretary of this Commission is directed to submit such report to the executive director or chairman of the plan commission of the City.

SECTION 4. The Commission finds, determines, ratifies and confirms that the issuance and sale of the Series 2012 Bonds in an aggregate amount not to exceed Two Million Five Hundred Thousand Dollars (\$2,500,000), and providing the proceeds of the Series 2012 Bonds to the Company for the financing of the Projects, will be of benefit to the health and general welfare of the City, will serve the public purposes referred to above in accordance with the Act, and fully comply with the Act.

SECTION 5. The financing of the Projects through the issuance of the Series 2012 Bonds, in an amount not to exceed Two Million Five Hundred Thousand Dollars (\$2,500,000), is hereby approved.

SECTION 6. The Commission hereby approves the terms of the following documents in the form presented at this meeting: (i) a Financing Agreement between the City and the Company; (ii) a Trust Indenture, between the City and U.S. Bank National Association, as trustee; (iii) the Bonds as set forth in the Trust Indenture; and (iv) an Ordinance of the Common Council of the City.

SECTION 7. Any officer of the Commission is hereby authorized and directed, in the name and on behalf of the Commission, to execute any and all other agreements, documents and instruments, perform any and all acts, approve any and all matters, and do any and all other things deemed by him to be necessary or desirable in order to carry out and comply with the intent, conditions and purposes of this resolution (including the preambles hereto and the documents mentioned herein), the Projects and the issuance and sale of the Bonds, and any such execution, performance, approval or doing of other things heretofore effected be, and hereby is, ratified and approved.

SECTION 8. The Secretary of this Commission shall transmit this resolution, together with the forms of the documents approved by this resolution, to the Common Council of the City.

SECTION 9. This resolution shall be in full force and effect upon adoption.

Adopted this 23rd day of October, 2012.

CITY OF WEST LAFAYETTE ECONOMIC
DEVELOPMENT COMMISSION

Member

Member

Member

Member

Member